

REMARKS

In the 30 April 2008 *Office Action*, the Examiner rejects all pending claims, Claims 1-24. Applicant thanks the Examiner with appreciation for the careful consideration and examination given to the Application. In response to the *Office Action*, Applicant provides the below remarks and clarifies certain of the pending claims.

Applicant files this response solely to facilitate prosecution. As such, Applicant reserves the right to present new or additional claims in this Application that have similar or broader scope as originally filed. Applicant also reserves the right to present additional claims in a later-filed continuation application that have similar or broader scope as originally filed. Any amendment, argument, or claim cancellation is not to be construed as abandonment or disclaimer of subject matter.

After entry of this *Response*, Claims 1-24 remain pending in the Application. Support for amendments to the claims may be found at least at page 5, lines 6-9 of the *Specification*. No new matter is believed presented by this submission. Applicant respectfully asserts that the pending claims are in condition for allowance and respectfully requests reconsideration of the claims in light of the following remarks.

I. The Pending Claims Are Patentable In Accordance With 35 U.S.C. § 101

The Examiner rejects Claims 1-8 under 35 U.S.C. § 101 as allegedly failing to include a tangible component. Applicant respectfully disagrees that a tangible component is required under § 101 as the statute language sets forth no such requirement. To facilitate prosecution of this, however, Applicant amends independent Claim 1 to recite a network interface device. As result, withdrawal of the § 101 claim rejection is respectfully requested.

II. The Pending Claims Are Patentable In Accordance With 35 U.S.C. § 112

The Examiner rejects Claims 17-24 as allegedly indefinite for failing to particularly point out and distinctly claim the subject matter regarded as the invention. Specifically, the Examiner asserts that the language of these claims is not understood, as they claim a “computer-readable medium” but comprise elements of a method. Applicant amends Claims 17-24 to clarify that the computer-readable medium contains instructions for performing a method. In *In re Beauregard*, 53 F.3d 1583 (Fed. Cir. 1995), the Commissioner of Patents and Trademarks approved this

“Beauregard” format of patent claims. Accordingly, withdrawal of the § 112 claim rejection is respectfully requested.

III. The Pending Claims Are Patentable In Accordance With 35 U.S.C. § 103

In the 30 April 2008 *Office Action*, the Examiner variously rejects all pending claims under 35 U.S.C. § 103(a). Applicant disagrees with these rejections and respectfully submits that the currently pending claims are patentable over the cited combinations for various reasons.

A. Applicant’s Independent Claims Are Patentable Over the Cited Combination

Independent Claims 1, 9, and 17 are rejected based on a combination of U.S. Pre-Grant Pub. No. 2003/0041179 to Snead and U.S. Patent No. 6,868,450 to Lucovsky. Applicant respectfully disagrees with this rejection and amends independent Claims 1, 9, and 17 to further clarify additional differences between the claimed invention and the cited combination.

The amended independent claims clarify that the claimed invention includes first and second connection managers, and that both the first and second connection managers are capable of: 1) registering with the provided driver; and 2) facilitating connections to wireless networks. These features are not disclosed in any of the cited references, or in any combination thereof. No combination of the cited references discloses multiple connection managers configured to register with a single driver. In addition, no combination of the references discloses the driver providing notification data to one of the connection managers, when the driver detects network access from another connection manager.

The Examiner asserts that Snead discloses a second connection manager in the form of a client application. (*Office Action*, p. 5.) Snead’s driver notifies the library manager of access to the client application (Snead, ¶ 44), and according to the Examiner, this action is equivalent to the claimed driver providing notification data to the first connection manager when the driver detects network access data (*Office Action*, p. 5). Snead’s client application is not, however, as recited in the amended independent claims, configured to register with the disclosed driver and to facilitate connecting to wireless networks.

Further, the Examiner asserts that Snead discloses a driver adapted to monitor network access data. (*Office Action*, p. 4.) But Applicant submits that amended Claims 1, 9, and 17 disclose not simply a driver adapted to monitor network access data, but a driver adapted to monitor network access data *from the second connection manager*. There is no disclosure or

suggestion in Snead that the driver monitors the client application. The Examiner admits that “[t]he client application 202 talks directly to the driver 206 via a WIN32 API.” (*Office Action*, p. 5; Snead, ¶ 44) In other words, the client application affirmatively notifies the driver of access to the storage device. Snead’s driver does not *monitor* the client application. The feature of the driver monitoring the second connection manager, as recited in Claims 1, 9, and 17, is not disclosed by Snead or by the cited combination.

Accordingly, Applicant respectfully submits that independent Claims 1, 9, and 17, along with their dependent claims, are patentable over the cited combination. Withdrawal of the § 103 rejections is respectfully requested.

B. Jenney Cannot Be Combined With Snead And Lucovsky To Arrive At The Claimed Invention

The Examiner uses U.S. Patent No. 6,349,335 to Jenney, in combination with Snead and Lucovsky, to reject Claims 4-6, 11-12, 15, 19-20, and 23-24. The Examiner concedes that both Snead and Lucovsky fail to disclose 1) the first connection manager unregistering with the driver and 2) the driver adapted to stop monitoring network access data, as are recited in these claims. To overcome this deficiency, the Examiner seeks to combine Jenney with Snead and Lucovsky. Applicant respectfully disagrees with this rejection at least because Jenney cannot be combined with Snead and Lucovsky to arrive at the claimed invention.

MPEP § 2143 mandates, and the USPTO’s obviousness examination guidelines reemphasize, that a *prima facie* case of obviousness includes specific factual findings. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success that the claimed invention would result from the reference combination. Lastly, the references, when combined, must teach or suggest all the claimed features as a whole as expressly required by 35 U.S.C. § 103. *See* MPEP § 2142 & § 2143.

The Examiner asserts that Jenney discloses the first connection manager unregistering from the driver. (*Office Action*, p. 9.) Applicant respectfully submits that Jenney makes no such disclosure. Jenney discloses a system and method for monitoring computers to determine whether any of such computers requires attention. (Jenney, col. 2, ll. 34-46.) As the Examiner points out, Jenney further discloses a computer’s removal from a list of computers monitored by

a server. (*Id.* at col. 8, ll. 39-47.) Jenney's computer, however, is not a connection manager, as Jenney fails to disclose or suggest that the removed computer manages any type of connections. Accordingly, Jenney does not disclose or suggest this feature of the claimed invention, and the cited combination also fails to make such disclosure or suggestion, as required for a *prima facie* case of obviousness.

Further, removing a computer from a monitoring network, as disclosed in Jenny, would not result in the claimed invention. Applicant's *Specification* describes a purpose of unregistering the first connection manager:

Typically, only one third party connection manager 118 or connection manager 112 may be registered with the device driver 109 at any given time. Because of the differences between policies, simultaneous registration with the device driver 109 by the connection manager 112 and a third party connection manager 118 may cause system or network failure due to implementation of conflicting policies. (*Specification*, p. 5, ll. 14-18.)

In contrast, Jenney contemplates "large numbers" of computers connecting to the monitoring network. (Jenney, col. 3, ll. 53-56 & col. 5, ll. 5-9.) Analogously removing one connection manager, while allowing many more connection managers to remain registered, would be contrary to the above purpose of the claimed invention. Thus, Jenney teaches away from Applicant's claimed invention. And this teaching away weighs against combination. Consequently, the claimed invention would not result from combining Jenney with Snead and Lucovsky.

Further, the Examiner claims that it would have been obvious to one of ordinary skill in the art to combine Jenney with Snead and Lucovsky because unregistering with the driver enables detection of "a computer failure or crash during operation when the user is not attending the computer." (*Office Action*, p. 9-10.) This alleged motivation to combine is the motivation for Jenney's system, but has nothing to do with Applicant's claimed invention. Further, unregistering the first connection manager from the driver, as recited in the claimed invention, does *not* enable detection of computer failure or crash. The alleged motivation would not cause one skilled in the art to combine Jenney with Snead and Lucovsky to arrive at the claimed invention. Accordingly, this alleged motivation is legally insufficient to reach a legal conclusion of obviousness.

Accordingly, for at least the above reasons, the Examiner has not presented a *prima facie* case of obviousness. Claims 4-6, 11-12, 15, 19-20, and 23-24 are patentable over the cited

combination at least because Jenney cannot be combined with Snead and Lucovsky. Withdrawal of the § 103 rejection is respectfully requested.

III. Fees

Applicant files this *Response* within three months of the 30 April 2008 *Office Action* and with no new claims. Thus, no fees are believed due. The Commissioner is authorized, however, to charge any required fees to Deposit Account No. 20-1507 for full acceptance of this submission.

IV. Conclusion

This *Response* is believed to be a complete response to the 30 April 2008 *Office Action*. Applicant respectfully asserts that the pending claims are in condition for allowance and respectfully requests passing of this case in due course of patent office business. If the Examiner believes there are other issues that can be resolved by a telephone interview, or there are any informalities remaining in the application which may be corrected by an Examiner's amendment, a telephone call to Hunter Yancey at (404) 885-3696 is respectfully requested.

Respectfully submitted,
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